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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,061	07/11/2003	Michael P. Lammert	2590P067	4328
8791	7590	05/19/2005		EXAMINER
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			LE, HUYEN D	
			ART UNIT	PAPER NUMBER
			3751	
				DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/618,061	LAMMERT ET AL.	
	Examiner	Art Unit	
	Huyen Le	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 March 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,8,9,14 and 15 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,6,7,12,13 and 18 is/are rejected.
- 7) Claim(s) 4,5,10,11,16,17 and 19-21 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03/08/2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/11/03, 12/15/03 and 01/09/04</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species II, Figures 2, in the reply filed on March 3, 2005 is acknowledged.
2. Currently, claims 1, 4-7, 10-13 and 16-21 are readable on Species II. Therefore, Claims 2, 3, 8, 9, 14 and 15 have withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The present invention," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 6, 7, 12, 13, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Feucht et al (5,531,192).

The Feucht et al reference discloses an engine valve apparatus comprising: an engine valve 16; an engine valve return spring 18 disposed to urge the engine valve 16 to a closed position; a source of fluid under pressure 28; a hydraulic actuator 10 disposed

to urge the engine valve 16 to an open position; valving 156 for controllably coupling the source of fluid under pressure to the hydraulic actuator for blocking fluid flow to and from the hydraulic actuator and for allowing fluid flow from the hydraulic actuator to vent; and, a controller (col. 5, lines 41-43) controlling the valving to couple the source of fluid under pressure to the hydraulic actuator until the engine valve stops at an engine valve opening at which the return force urging the engine valve toward the closed position exceeds the hydraulic force urging the engine valve toward the open position, then blocking fluid flow to and from the hydraulic actuators and to allow fluid flow from the hydraulic actuator to the vent when the engine valve is to be closed.

Regarding claim 18, the hydraulic actuator 10 and the return spring 18 are coaxial with the engine valve.

Regarding claims 1, 6, 7 and 12, the method of opening an engine valve is inherently performed during the normal operation of the valve.

Allowable Subject Matter

6. Claims 4, 5, 10, 11, 16, 17, 19-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

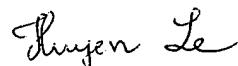
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Cannon, Richeson and Richeson et al references show hydraulically controlled valves for engines.

Art Unit: 3751

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Huyen Le
Examiner
Art Unit 3751

HL
May 16, 2005